



STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY

Northwest Regional Office • 3190 160th Avenue SE • Bellevue, Washington 98008-5452 • (425) 649-7000

NOV 08 2018

Jim Shinn  
Stetson Heights LLC  
8638 NE 19<sup>th</sup> PL  
Clyde Hill, WA 98004

Order Docket No.	16104
Site Location	S and SW of Glenwood Road, Port Orchard, WA

Re: Immediate Action Order

Dear Jim Shinn:

The Department of Ecology (Ecology) has issued the enclosed Immediate Action Order (Order) requiring Stetson Heights LLC to comply with:

- Chapter 90.48.080 Revised Code of Washington (RCW) – Water Pollution Control.
- Chapter 173.226.070 Washington Administrative Code (WAC) – State Waste Discharge General Permit.
- Provisions of its National Pollutant Discharge Elimination System (NPDES) Permit Number WAR306103.

If you have questions, please contact Evan Dobrowski at 425-649-7276 or via e-mail at [edob461@ecy.wa.gov](mailto:edob461@ecy.wa.gov).

Sincerely,

Rachel McCrea  
Water Quality Section Manager  
Northwest Regional Office  
Washington State Department of Ecology

Enclosure: Immediate Action Order Docket No. 16104

By Certified Mail No.: 9171 9690 0935 0204 6828 87



**STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY**

IN THE MATTER OF AN	)	ADMINISTRATIVE ORDER
ADMINISTRATIVE ORDER	)	DOCKET NO. 16104
AGAINST	)	
Stetson Heights LLC	)	
Jim Shinn	)	

To: Jim Shinn  
Stetson Heights LLC  
8638 NE 19<sup>th</sup> Pl  
Clyde Hill, WA 98004

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- National Pollutant Discharge Elimination System (NPDES) Permit WAR306103.

RCW 90.48.120(2) authorizes Ecology to issue Immediate Action Orders to accomplish the purposes of Chapter 90.48 RCW (Water Pollution Control).

This Order is issued pursuant to the authority vested in Ecology by the Federal Water Pollution Control Act (FWPCA), 33 U.S.C. sec 1311, et seq. and Chapter 90.48 RCW.

RCW 90.48.030 allows Ecology to have the jurisdiction to control and prevent the pollution of streams, lakes, rivers, ponds, inland waters, salt waters, water courses, other surface and underground waters of the state of Washington. "Other surface waters" includes wetlands and marshes.

**DETERMINATION OF VIOLATION(s) AND ORDER TO COMPLY**

**Ecology's determination that violations have occurred is based on the violations listed below.**

*Violation(s) and associated corrective action(s):*

Stetson Heights LLC is authorized to discharge stormwater and dewatering water in accordance with Construction Stormwater General Permit Number WAR306103. The permit allows construction stormwater to be discharged in a manner that does not contribute to a violation of RCW 90.48. Stormwater discharges to the City of Port Orchard's municipal stormwater system (roadside ditch), then to a tributary to Ruby Creek which ultimately discharges to Sinclair Inlet. Ecology's stormwater unit conducted an inspection at this location on July 11, 2018, and sent a corrections required letter

to Stetson Heights LLC documenting numerous permit violations, many of which remain unaddressed and contributed to the October turbid discharges described below. On October 26, 2018, Stetson Heights LLC caused a discharge of turbid stormwater to Ruby Creek that exceeded benchmark limits of the permit; measured at 641 NTU by Zack Holt, City of Port Orchard. On October 29, 2018, Stetson Heights LLC caused a second discharge of turbid stormwater to Ruby Creek and on-site wetlands that exceeded benchmark limits of the permit. These discharges caused significant amounts of silt to fill a roadside ditch, accumulate in a stream and downstream wetland. Wetlands directly adjacent to the site were also impacted via silt accumulation.

*Violation(s) description:*

Ecology staff conducted site visits and inspections at the Stetson Heights LLC construction site on July 11, 2018, October 26, 2018 and October 29, 2018. The following permit violations were observed on one or more of these dates.

1. Permit Condition S9; the Permittee must prepare and properly implement an adequate Stormwater Pollution Prevention Plan (SWPPP) for construction activity in accordance with the requirements of this permit beginning with initial soil disturbance and until final stabilization.
2. Permit Condition S4.C.2.a; the Permittee must sample all discharge points at least once every calendar week when stormwater (or authorized non-stormwater) discharges from the site or enters any on-site surface waters of the state (for example, a creek running through a site); sampling is not required on sites that disturb less than an acre.
3. Permit Condition S4.C.5.b; if a discharge point's turbidity is 250 NTUs or greater, or if discharge transparency is less than or equal to 6cm, the Permittee must complete the reporting and adaptive management process described in section S4.C.5b.i-v.
4. Permit Condition S4.B; The Permittee's site inspections must include all areas disturbed by construction activities, all BMPs, and all stormwater discharge points under the Permittee's operational control. In accordance with S4.B1.b; immediately begin the process of fully implementing and maintaining appropriate source control and/or treatment BMPs as soon as possible, addressing the problems no later than within 10 days of the inspection. If installation of necessary treatment BMPs is not feasible within 10 days, Ecology may approve additional time when an extension is requested by the Permittee within the initial 10-day response period.
5. Permit Condition S9.D.6; The Permittee must protect slopes.
6. Permit Condition S9.D.3; Protect properties and waterways downstream of development sites from erosion and the associated discharge of turbid waters due to increases in the velocity and peak volumetric flow rate of stormwater runoff from the project site, as required by local plan approval authority.
7. Permit Condition S9.D.4; the Permittee must design, install and maintain effective erosion controls and sediment controls to minimize the discharge of pollutions. At a minimum the Permittee must design, install, and maintain such controls as laid out in S9.D.4a-f.
8. Permit Condition S9.D.2.b; the Permittee must stabilize access points with a pad of quarry spalls, crushed rock, or other equivalent BMPs, to minimize tracking sediment onto roads.

*Corrective actions required:*

For these reasons and in accordance with NPDES Permit No. WAR306103, RCW 90.48.080 and 90.48.120(2,) it is ordered that Stetson Heights LLC take the following actions. These actions are required at the location known as Stetson Heights located at S and SW of Glenwood Road, Port Orchard, WA.

1. Immediately upon receipt of this order, Stetson Heights LLC must cease all stormwater discharges from the site until appropriate erosion and sediment control and treatment BMPs are installed which demonstrate that the stormwater discharged from the site can meet the turbidity benchmark of 25 NTU or lower.
2. On or before November 15, 2018, Stetson Heights LLC must fully implement an updated Stormwater Pollution Prevention Plan (SWPPP) which includes, but is not limited to, the following:
  - a. Divert all stormwater flows to on-site stormwater flow control structures.
  - b. Install all necessary BMPs to stabilize slopes and flow paths from stormwater erosion issues such as rilling.
  - c. Install conveyance channels in accordance with BMP C202 and C207.
  - d. Begin phasing the project for ground work to ensure BMPs are functional at all times. Do not remove any additional vegetation until current phase is stabilized and discharges are consistently meeting 25 NTU or lower.
  - e. Maintain all BMPs on-site in order for BMPs to remain functional for the life of the project until final stabilization is established.
3. Report the following information to Ecology inspector, Evan Dobrowski via e-mail at edob461@ecy.wa.gov:
  - a. Submit an updated SWPPP no later than November 15, 2018.
  - b. Beginning immediately upon receipt of this Order until December 1, 2018, conduct daily inspections and submit photo/video/written documentation of inspections on a daily basis. Inspection documentation must include all actual or potential discharge points, evidence that off-site discharges have ceased, sampling results documenting progress toward achieving the 25 NTU benchmark, implemented BMPs, and current site work.
  - c. Beginning December 1, 2018, and lasting through January 31, 2019, conduct inspections during all rain events and submit photo/video/written documentation on a weekly basis. Inspection documentation must include all actual or potential discharge points, evidence that off-site discharges have ceased or are achieving the 25 NTU benchmark, implemented BMPs, and current site work.
4. Under direction of WA Department of Fish and Wildlife and the City of Port Orchard, clean and repair wetlands, streams, roadways, culverts, and roadside ditches affected by turbid stormwater discharges from the site. Obtain all necessary permits before doing this work.

### **ELIGIBILITY FOR PAPERWORK VIOLATION WAIVER AND OPPORTUNITY TO CORRECT**

Under RCW 34.05.110, small businesses are eligible for a waiver of a first-time paperwork violation and an opportunity to correct other violations. We have made no determination as to whether you meet the definition of a “small business” under this section. However, we have determined that the requirements of RCW 34.05.110 do not apply to the violation(s) due to a conflict with federal law or program requirements, including federal requirements that are a prescribed condition to the allocation of federal funds to the state.

### **FAILURE TO COMPLY WITH THIS ORDER**

Failure to comply with this Order may result in the issuance of civil penalties or other actions, whether administrative or judicial, to enforce the terms of this Order.

### **YOUR RIGHT TO APPEAL**

You have a right to appeal this Order to the Pollution Control Hearing Board (PCHB) within 30 days of the date of receipt of this Order. The appeal process is governed by Chapter 43.21B RCW and Chapter 371-08 WAC. “Date of receipt” is defined in RCW 43.21B.001(2).

To appeal, you must do both of the following within 30 days of the date of receipt of this Order:

- File your appeal and a copy of this Order with the PCHB (see addresses below). Filing means actual receipt by the PCHB during regular business hours.
- Serve a copy of your appeal and this Order on Ecology in paper form - by mail or in person. (See addresses below.) E-mail is not accepted.

You must also comply with other applicable requirements in Chapter 43.21B RCW and Chapter 371-08 WAC.

Your appeal alone will not stay the effectiveness of this Order. Stay requests must be submitted in accordance with RCW 43.21B.320.

### **ADDRESS AND LOCATION INFORMATION**

<b>Street Addresses</b>	<b>Mailing Addresses</b>
<b>Department of Ecology</b> Attn: Appeals Processing Desk 300 Desmond Drive SE Lacey, WA 98503	<b>Department of Ecology</b> Attn: Appeals Processing Desk PO Box 47608 Olympia, WA 98504-7608
<b>Pollution Control Hearings Board</b> 1111 Israel Road SW STE 301 Tumwater, WA 98501	<b>Pollution Control Hearings Board</b> PO Box 40903 Olympia, WA 98504-0903

## CONTACT INFORMATION

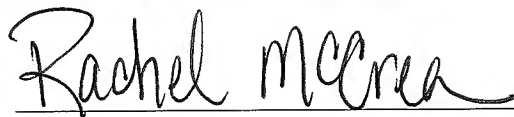
Please direct all questions about this Order to:

Evan Dobrowski  
Northwest Regional Office  
WA State Department of Ecology  
3190 160<sup>th</sup> Avenue SE  
Bellevue, WA 98008-5452  
Phone: 425-649-7276  
Email: edob461@ecy.wa.gov

## MORE INFORMATION

- Pollution Control Hearings Board Website: [www.eho.wa.gov/Boards\\_PCHB.aspx](http://www.eho.wa.gov/Boards_PCHB.aspx)
- Chapter 43.21B RCW - Environmental and Land Use Hearings Office – Pollution Control Hearings Board: <http://app.leg.wa.gov/RCW/default.aspx?cite=43.21B>
- **Chapter 371-08 WAC – Practice And Procedure:**  
<http://app.leg.wa.gov/WAC/default.aspx?cite=371-08>
- **Chapter 34.05 RCW – Administrative Procedure Act:**  
<http://app.leg.wa.gov/RCW/default.aspx?cite=34.05>
- **Laws:** [www.ecy.wa.gov/laws-rules/ecyrcw.html](http://www.ecy.wa.gov/laws-rules/ecyrcw.html)
- **Rules:** [www.ecy.wa.gov/laws-rules/ecywac.html](http://www.ecy.wa.gov/laws-rules/ecywac.html)

## SIGNATURE



Rachel McCrea  
Water Quality Section Manager  
Northwest Regional Office  
WA State Department of Ecology

11/8/18

Date